



ORANGE COUNTY
COASTKEEPER®

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November 19, 2012

VIA CERTIFIED MAIL

Anaheim Truck Depot
Attn: Managing Agent
1231 North Blue Gum Street
Anaheim, California 92806

CVT Recycling Center
Attn: Managing Agent
1071 North Blue Gum Street
Anaheim, California 92806

Taormina Industries, Inc.
1231 North Blue Gum Street
Anaheim, California 92806

Republic Waste Services of Southern
California, LLC
18500 North Allied Way
Phoenix, Arizona 85054

Consolidated Volume Transport
Attn: Managing Agent
1131 North Blue Gum Street
Anaheim, California 92806

Republic Services, Inc.
110 Southeast 6th Street, Suite 2800
Fort Lauderdale, Florida 33301

Taormina Industries, Inc.
1131 North Blue Gum Street
Anaheim, California 92806

VIA U.S. MAIL

C T Corporation System
(Registered Agent for Taormina Industries, Inc.)
818 West Seventh Street, Second Floor
Los Angeles, California 90017

C T Corporation System
(Registered Agent for Republic Services, Inc.)
818 West Seventh Street, Second Floor
Los Angeles, California 90017

C T Corporation System
*(Registered Agent for Republic Waste Services of
Southern California, LLC)*
818 West Seventh Street, Second Floor
Los Angeles, California 90017

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Orange County Coastkeeper ("Coastkeeper") in regard to violations of the Clean Water Act¹ and California's Storm Water Permit² occurring at three

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

industrial facilities: Anaheim Truck Depot ("ATD Facility"), located at 1231 North Blue Gum Street, Anaheim, California 92806; Consolidated Volume Transport ("CVT Facility"), located at 1131 North Blue Gum Street, Anaheim, California 92806; and CVT Recycling Center ("CVT Recycling Facility"), located at 1071 North Blue Gum Street, Anaheim, California 92806 (hereinafter collectively referred to as the "Republic Facilities"). The purpose of this letter is to put the owner(s) and/or operator(s) of the Republic Facilities on notice of the violations of the Storm Water Permit occurring at the Republic Facilities, including, but not limited to, violations caused by discharges of polluted storm water from the Republic Facilities into local water bodies. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the Republic Facilities owners and/or operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Coastkeeper has obtained documents and information relating to the Republic Facilities via Public Records Act requests, including documents submitted by the Republic Facilities to the Santa Ana Regional Water Quality Control Board ("Regional Board"). Coastkeeper has also visually observed the industrial activities at the Republic Facilities. The violations of the Storm Water Permit and the Clean Water Act at the Republic Facilities described herein are based on Coastkeeper's review of the Regional Board documents and information, as well as Coastkeeper's observations.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1).

On May 18, 2012, Coastkeeper put the owners and/or operators of the CVT Facility on notice that Coastkeeper intended to file an enforcement action in Federal court for violations of the Storm Water Permit and the Clean Water Act. At that time, information available to Coastkeeper indicated that the CVT Facility and the ATD Facility were operating as single facility, as the facility owners and/or operators submitted Storm Water Permit reporting for both facilities together in one report. On June 27, 2012, the owners and/or operators of the CVT Facility responded to Coastkeeper's May 18, 2012 letter stating that the CVT Facility and the ATD Facility are separate industrial facilities with separate waste discharge identification numbers, and separate coverage under the Storm Water Permit. In addition, since May 18, 2012, Coastkeeper has obtained information indicating that the owners and/or operators of the CVT Facility also own and/or operate the CVT Recycling Facility.

Accordingly, Coastkeeper issues this supplemental notice letter pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act (hereinafter "Supplemental Notice Letter"), which is

² State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ, National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 ("Storm Water Permit").

being sent to you as the responsible owner(s), officer(s), and/or operator(s) of the Republic Facilities, or as the registered agent for these individuals and entities. This Supplemental Notice Letter informs the Republic Facilities owners and/or operators that, after the expiration of sixty (60) days from the date of this letter, Coastkeeper intends to file an enforcement action in Federal court against them for violations of the Storm Water Permit and the Clean Water Act.

I. Background

A. Orange County Coastkeeper

Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Coastkeeper has approximately 2,000 members who live and/or recreate in and around the Orange County area, including the Santa Ana River Watershed. Coastkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of Orange County area surface waters. To further these goals, Coastkeeper actively seeks Federal and State agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of itself and others.

Members of Coastkeeper use and enjoy the waterways into which polluted storm water and non-storm water from the Republic Facilities are discharged, including Carbon Canyon Creek,³ the Santa Ana River and their tributaries, and the Pacific Ocean (collectively "Receiving Waters"). Specifically, Coastkeeper members use and enjoy the Receiving Waters for fishing, boating, swimming, bird watching, picnicking, viewing wildlife, sailing, kayaking, hiking, and engaging in scientific study including monitoring activities. Discharges of polluted storm water and non-storm water from the Republic Facilities degrade water quality and harm aquatic life in the Receiving Waters, and impair each of Coastkeeper's members' uses. Further, Republic Facilities' polluted discharges are ongoing and continuous. Thus, the interests of Coastkeeper's members have been, are being, and will continue to be adversely affected by the Republic Facilities owners' and/or operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Republic Facilities Owners and/or Operators

As explained below the CVT Facility, the ATD Facility, and the CVT Recycling Facility are located in the same vicinity, and each has common owners and/or operators.

1. CVT Facility

The Storm Water Permit requires that certain industrial facilities submit a Notice of Intent ("NOI") to the State Water Resources Control Board ("State Board") in order to obtain coverage under the Storm Water Permit. CVT Facility owners and/or operators first obtained

³ The ATD Facility SWPPP states that the site drains to Carbon Creek. However, information available to Coastkeeper indicates that this is an error, and that the correct waterbody is Carbon Canyon Creek. *See Santa Ana River Basin Water Quality Control Plan.*

Storm Water Permit coverage in 1992. On November 10, 1998, CVT Facility owners and/or operators submitted a subsequent NOI to obtain Storm Water Permit coverage under a revised version of the Storm Water Permit ("CVT 1998 NOI"). The CVT 1998 NOI identified the owner and/or operator of the CVT Facility as "Taormina Industries Inc." at P.O. Box 309, Anaheim, California 92815. The CVT 1998 NOI identifies the facility name and location as "Consolidated Volume Transporte [*sic*], 1131 North Blue Gum Street, Anaheim, California 92806." The CVT 1998 NOI lists the applicable SIC codes for the CVT Facility as 4953 (refuse systems) and 5093 (scrap recycling facilities).

Information available to Coastkeeper indicates that Taormina Industries, Inc. is an owner and/or operator of the CVT Facility. Information available to Coastkeeper indicates that Taormina Industries, Inc. is a subsidiary of Republic Services, Inc. and/or Republic Waste Services of Southern California, LLC. Information available to Coastkeeper indicates that Republic Services, Inc. is an owner and/or operator of the CVT Facility. Information available to Coastkeeper indicates that Republic Waste Services of Southern California, LLC is an owner and/or operator of the CVT Facility. Coastkeeper refers to Taormina Industries, Inc., Republic Services, Inc., and Republic Waste Services of Southern California, LLC collectively as the "CVT Facility Owners and/or Operators."

Information available to Coastkeeper indicates that Republic Services, Inc. is an active corporation registered in California. Information available to Coastkeeper indicates that Republic Waste Services of Southern California, LLC is an active limited liability company registered in California. The Registered Agent for Taormina Industries, Inc., Republic Services, Inc., and Republic Waste Services of Southern California, LLC is CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

The CVT Facility Owners and/or Operators have discharged and continue to discharge pollutants from the CVT Facility into the Receiving Waters. As explained herein, the CVT Facility Owners and/or Operators are therefore liable for violations of the Storm Water Permit and the Clean Water Act.

2. ATD Facility

The ATD Facility owners and/or operators first submitted an NOI to obtain Storm Water Permit coverage to the State Board on February 19, 1992. On November 10, 1998, ATD Facility owners and/or operators submitted a subsequent NOI ("ATD 1998 NOI"). The ATD 1998 NOI identified the owner and/or operator of the ATD Facility as "Taormina Industries Inc." at P.O. Box 309, Anaheim, California 92815. The ATD 1998 NOI identifies the facility name and location as "Anaheim Truck Depot, 1231 North Blue Gum Street, Anaheim, California 92815." The ATD 1998 NOI lists the applicable SIC code as 4231 (terminal and joint terminal maintenance facilities for motor freight transportation). The CVT Facility Owners' and/or Operators' June 27, 2012 Letter included an additional SIC code for the ATD Facility of 4212 (local trucking without storage).

Information available to Coastkeeper indicates that Taormina Industries, Inc. is an owner and/or operator of the ATD Facility. Information available to Coastkeeper indicates that Taormina Industries, Inc. is a subsidiary of Republic Services, Inc. and/or Republic Waste Services of Southern California, LLC. Information available to Coastkeeper indicates that Republic Services, Inc. is an owner and/or operator of the ATD Facility. Information available to Coastkeeper indicates that Republic Waste Services of Southern California, LLC is an owner and/or operator of the ATD Facility. Coastkeeper refers to Taormina Industries, Inc., Republic Services, Inc., and Republic Waste Services of Southern California, LLC collectively as the "ATD Facility Owners and/or Operators."

Information available to Coastkeeper indicates that Republic Services, Inc. is an active corporation registered in California. Information available to Coastkeeper indicates that Republic Waste Services of Southern California, LLC is an active limited liability company registered in California. The Registered Agent for Taormina Industries, Inc.; Republic Services, Inc.; and Republic Waste Services of Southern California, LLC is CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

The ATD Facility Owners and/or Operators have discharged and continue to discharge pollutants from the ATD Facility into the Receiving Waters. As explained herein, the ATD Facility Owners and/or Operators are therefore liable for violations of the Storm Water Permit and the Clean Water Act.

3. CVT Recycling Center

Information available to Coastkeeper indicates that the CVT Recycling Facility owners and/or operators have not submitted an NOI to obtain Storm Water Permit coverage to the State Board. Information available to Coastkeeper indicates that Republic Services, Inc. is the owner and/or operator of the CVT Recycling Facility ("CVT Recycling Owner and/or Operator"), which is located at 1071 North Blue Gum Street, Anaheim, California 92806. Information available to Coastkeeper indicates that the applicable SIC code for this facility is 5093 (scrap and waste materials).

Information available to Coastkeeper indicates that Republic Services, Inc. is an active corporation registered in California. The Registered Agent for Republic Services, Inc. is CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

The CVT Recycling Facility Owner and/or Operator has discharged and continues to discharge pollutants from the CVT Recycling Facility into the Receiving Waters. As explained herein, the CVT Recycling Facility Owner and/or Operator is therefore liable for violations of the Storm Water Permit and the Clean Water Act.

C. Storm Water Pollution and the Receiving Waters

With every significant rainfall event millions of gallons of polluted storm water originating from industrial operations such as the Republic Facilities pour into storm drains and

the local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Discharges of polluted storm water and non-storm water from waste transfer and recycling facilities such as the Republic Facilities contain pollutants such as: oil and grease ("O & G"); hydraulic fluids; transmission fluid; antifreeze; solvents; detergents; water-based paint and solvents; aromatic hydrocarbons; chlorinated hydrocarbons; total suspended solids ("TSS"); and heavy metals (including copper, iron, lead, aluminum, and zinc). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, developmental, or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the Receiving Waters are still essential habitat for dozens of fish and bird species as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of the Receiving Waters for water contact sports exposes many people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

The Regional Board issued the *Santa Ana River Basin Water Quality Control Plan* ("Basin Plan"), which identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Santa Ana River, which receives polluted storm water discharges from the Republic Facilities include: Municipal and Domestic Supply ("MUN"); Agricultural Supply ("AGR"); Groundwater Recharge ("GWR"); Water Contact Recreation ("REC 1*"); Non-contact Water Recreation ("REC 2*"); Warm Freshwater Habitat ("WARM"); Wildlife Habitat ("WILD"); Rare, Threatened or Endangered Species ("RARE"); Cold Freshwater Habitat ("COLD"); and Spawning, Reproduction and Development ("SPWN"). See Basin Plan at Table 3-1. The Beneficial Uses for Carbon Canyon Creek: MUN, GWR, REC 1*, REC 2*, WILD, and RARE. See *id.* According to the 2010 303(d) List of Impaired Water Bodies, Reach 2 of the Santa Ana River is impaired for indicator bacteria.⁴ Polluted discharges from industrial sites, such as Republic Facilities, contribute to the degradation of these already impaired surface waters and aquatic dependent wildlife.

⁴ 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml, (last accessed on October 16, 2012).

II. The Republic Facilities and Associated Discharges of Pollutants

A. CVT Facility

1. CVT Facility Site Description

The CVT Facility is approximately seventeen (17) acres, ninety-four (94) percent of which consists of impervious areas. Approximately thirty-nine (39) percent of the impervious areas consists of structures and fifty-five (55) percent are paved areas. The remaining six (6) percent of the site is reported as being pervious landscaped areas.

2. CVT Facility Industrial Activities and Pollutant Sources

Information available to Coastkeeper indicates that the following industrial activities are conducted at the CVT Facility: commercial and residential solid waste and recyclable material pick up, processing, sorting, unloading, loading, shipping, storage, and recycling; maintaining solid waste off-road vehicles; and diesel refueling. Information available to Coastkeeper indicates that CVT Facility Owners and/or Operators also store household hazardous waste and electronic waste such as batteries, paints, household cleaning products, and propane tanks. Additionally, CVT Facility Owners' and/or Operators' reporting to the Regional Board indicates that hazardous wastes are generated at the CVT Facility by CVT Facility Owners' and/or Operators' service and maintenance of heavy equipment. Information available to Coastkeeper indicates that municipal solid waste, recyclable materials, construction and demolition debris, household hazardous waste, electronic waste, and unprocessed green and wood waste are stored outdoors without adequate cover or containment, and near driveways leading out of the CVT Facility. Information available to Coastkeeper indicates that industrial activities at the CVT Facility are conducted outdoors without adequate cover to prevent storm water exposure to pollutant sources, and without secondary containment or other measures to prevent polluted storm water from discharging from the CVT Facility.

The Storm Water Pollution Prevention Plan ("SWPPP") for the CVT Facility identifies sources of pollutants at the facility to include: trucks including fueling trucks; equipment such as a grinder; municipal solid waste; construction and demolition debris; recyclables; unprocessed green and wood waste; dirt; batteries; paints; household cleaning products; propane tanks; and electronic waste. Information available to Coastkeeper indicates that there may be additional pollutant sources, including, but not limited to the following: conveyors; forklifts; oil and coolant storage and disposal area(s); fluid draining area(s); shipping and receiving area(s); loading and unloading area(s); driveway area(s); and office building(s).

Information available to Coastkeeper also indicates that green and wood waste, recyclables, hazardous waste, oil and grease, municipal solid waste, and other pollutants have been and continue to be tracked throughout the CVT Facility. These pollutants accumulate at bulk storage areas, loading and unloading areas, and parking lot(s) and the driveways leading onto North Blue Gum Street and East Coronado Street. As a result, trucks and vehicles leaving the CVT Facility via staging areas and driveways are pollutant sources tracking sediment, dirt,

O & G, metal particles, and other pollutants off-site.

3. CVT Facility Pollutants and Discharge Points

Information available to Coastkeeper, including the SWPPP for the CVT Facility, indicates that the pollutants associated with operations at the CVT Facility include, but are not limited to: heavy metals such as zinc, copper, lead, aluminum, and iron; pH-affecting substances; O & G; fuel and fuel additives; TSS; coolant; aromatic hydrocarbons; chlorinated hydrocarbons; inorganic nitrogen; and fugitive and other dust, dirt, and debris. The CVT Facility Owners' and/or Operators' failure to develop and/or implement required best management practices ("BMPs") results in the exposure of pollutants associated with their industrial activities to precipitation, and results in the discharge of polluted storm water from the CVT Facility into Receiving Waters in violation of the Storm Water Permit and the Clean Water Act. The CVT Facility Owners' and/or Operators' failure to develop and/or implement required BMPs also results in discharges of prohibited non-storm water in violation of the Storm Water Permit and the Clean Water Act.

Information available to Coastkeeper indicates there are at least eight (8) storm water discharge points at the CVT Facility. CVT Facility Owners and/or Operators collect storm water samples from two (2) of these discharge points, which the SWPPP for the CVT Facility identifies as Monitoring Point 1 ("MRF-S") and Monitoring Point 2 ("MRF-N"). Information available to Coastkeeper indicates that Monitoring Point 1 is located at the northeast corner of the site at the drain by North Blue Gum Street. Information available to Coastkeeper indicates that Monitoring Point 2 is located at the northwest corner of the site at the East Coronado Street cul-de-sac. The remaining six (6) discharge points are identified on the SWPPP site map, and are located on the perimeter of the facility abutting North Blue Gum Street, the corner of La Palma Avenue and the 91/57 freeway interchange, on East Coronado Street, and at the driveways located on North Blue Gum Street and on East Coronado Street.

Information available to Coastkeeper, including the CVT Facility SWPPP, indicates that there are four (4) main drainage areas at the CVT Facility, and that different industrial operations and activities are conducted in each of these drainage areas. Information available to Coastkeeper indicates that the majority of the discharges coming off the site flow west towards the back of the CVT Facility to the culvert adjacent to the 91 and 57 freeways ("91/57 Interchange Culvert"). These discharges enter the storm drain system, which connects to the Santa Ana River.

The CVT Facility Owners and/or Operators have not developed and/or implemented BMPs required to address pollutant sources, to prevent the exposure of pollutants to storm water, and to prevent the subsequent discharge of polluted storm water from the CVT Facility during significant rain events.⁵ CVT Facility Owners' and/or Operators' failure to develop and/or

⁵ A significant rain event is an event that produces storm water runoff, which according to EPA occurs with 0.1 inches or more of precipitation. See United States Environmental Protection Agency, NPDES Storm Water Sampling Guidance Document, July 1992. Days with precipitation 0.1 inches or greater at the Republic Facilities are reported by the National Oceanic and Atmospheric Association National Climatic Data Center at the Fullerton Dam, California through November 21, 2011 (available at:

implement required BMPs has also caused prohibited discharges of non-storm water from the CVT Facility to Receiving Waters.

B. ATD Facility

1. ATD Facility Site Description

The ATD Facility is approximately thirteen (13) acres, ninety-seven (97) percent of which consists of impervious areas. Approximately twenty-two (22) percent of the impervious areas include structures and seventy-five (75) percent are paved areas. The remaining three (3) percent of the site is reported as being pervious landscaped areas.

2. ATD Facility Industrial Activities and Pollutant Sources

Information available to Coastkeeper indicates that the following industrial activities are conducted at the ATD Facility: public and private commercial diesel, gasoline, compressed natural gas, and liquid natural gas refueling; refueling of solid waste collection and bulk transfer vehicles; truck and vehicle parking; equipment, (metal) parts, bins, chemical, and fluid storage; equipment, bins, parts, and truck cleaning and washing; draining oil filters and emptying drip pans; repairing and welding bins and trucks; and bin, container, equipment and truck maintaining and painting. Information available to Coastkeeper indicates that ATD Facility Owners and/or Operators also store hazardous waste generated from servicing and maintaining trucks and equipment such as waste oil, brake fluid, waste antifreeze, used oil filters, batteries, soiled rags, dry shop waste (rags, absorbent materials), and temporarily store office-generated electronic waste including fluorescent bulbs and computers. Information available to Coastkeeper indicates that waste oil, brake fluid, waste antifreeze, used oil filters, batteries, soiled rags, absorbent materials, paint, paint remover, detergents, and water based cleaners are stored outdoors without adequate cover or containment, and near driveways. Information available to Coastkeeper indicates that industrial activities at the ATD Facility are conducted outdoors without adequate cover to prevent storm water exposure to pollutant sources, and without secondary containment or other measures to prevent polluted storm water from discharging from the ATD Facility.

The SWPPP for the ATD Facility lists sources of pollutants at the ATD Facility to include: leaky fluid lines, draining oil filters, emptying drip pans, and parts washing station; maintenance fluid storage area; refueling areas; bin repair and weld shop; paint booth; truck wash area; bin wash area; storage building; truck and vehicle parking area; outside material storage/work areas; material handling and storage area(s); dust and particulate generating activities; significant spills and leaks; and soil erosion. Information available to Coastkeeper indicates that there may be additional pollutant sources, including, but not limited to the following: conveyors and forklifts; oil and coolant storage and disposal area(s); fluid draining area(s); shipping and receiving area(s); loading and unloading area(s); driveway area(s); and office building(s).

Information available to Coastkeeper also indicates that dust, dirt, debris, O & G, metal particulates, and other pollutants have been and continue to be tracked throughout the ATD Facility. These pollutants accumulate at the bulk storage areas, the loading and unloading areas, and the parking lots and the driveways leading onto East Coronado Street. As a result, trucks and vehicles leaving the ATD Facility via staging areas and driveways are pollutant sources tracking sediment, dirt, O & G, metal particles, and other pollutants off-site.

3. ATD Facility Pollutants and Discharge Points

Information available to Coastkeeper indicates that the pollutants associated with operations at the ATD Facility include, but are not limited to: O & G; fuel and fuel additives; TSS; coolant; aromatic hydrocarbons; chlorinated hydrocarbons; pH-affecting substances; and fugitive and other dust, dirt, and debris. The ATD Facility Owners' and/or Operators' failure develop and/or implement required BMPs results in the exposure of pollutants associated with their industrial activities to precipitation, and results in the discharge of polluted storm water from the ATD Facility into Receiving Waters in violation of the Storm Water Permit and the Clean Water Act. The ATD Facility Owners' and/or Operators' failure to develop and/or implement BMPs also results in discharges of prohibited non-storm water in violation of the Storm Water Permit and the Clean Water Act.

Information available to Coastkeeper, including the ATD Facility SWPPP site map, indicates there are at least eight (8) storm water discharge points at the ATD Facility. ATD Facility Owners and/or Operators collect storm water samples from two (2) of these discharge points. The SWPPP for the ATD facility identifies Monitoring Point 1 as "MP-O&M" or "O&M," and Monitoring Point 2 as "MP-ATD" or "ATD." Information available to Coastkeeper indicates that Monitoring Point 1 is located at the northwest corner of the site in the vicinity of the truck parking area, abutting commercial industrial property, and that Monitoring Point 2 is located at the southeast corner of the site, near the fueling area, at the driveway onto North Blue Gum Street. The remaining six (6) discharge points are located on the perimeter of the facility abutting North Blue Gum Street, East Coronado Street, and the 91/57 freeway interchange, and at the driveways located on North Blue Gum Street and on East Coronado Street.

Information available to Coastkeeper, including the ATD Facility SWPPP, indicates that there are four (4) main drainage areas at the ATD Facility, and that different industrial operations and activities are conducted in each of these drainage areas. Information available to Coastkeeper indicates that the majority of the discharges from the ATD Facility flow west to the 91/57 Interchange Culvert. These discharges enter the storm drain system, which connects to Carbon Canyon Creek, a tributary of the Santa Ana River.

The ATD Facility Owners and/or Operators have not developed and/or implemented BMPs required to address pollutant sources, to prevent the exposure of pollutants to storm water, and to prevent the subsequent discharge of polluted storm water from the ATD Facility during significant rain events. ATD Facility Owners' and/or Operators' failure to adequately develop

and/or implement required BMPs has also caused prohibited discharges of non-storm water from the ATD Facility to Receiving Waters.

C. CVT Recycling Facility

1. CVT Recycling Facility Site Description

Information available to Coastkeeper indicates that the CVT Recycling Facility is a public and commercial recycling center. The CVT Recycling Owner and/or Operator is required to have, but has not obtained, coverage under the Storm Water Permit for discharges associated with industrial activities at the CVT Recycling Facility.

2. CVT Recycling Facility Industrial Activities and Pollutant Sources

Information available to Coastkeeper indicates that the following industrial activities are conducted at the CVT Recycling Facility: collection, processing, reclaiming and wholesale distribution of waste materials; recycling of aluminum cans, glass bottles, plastic bottles, ledger paper, cardboard, newspaper, computer paper, and other items; and destruction of products and documents. Information available to Coastkeeper indicates that cans, bottles, paper, other items for recycling, and containers are stored outdoors without adequate cover or containment, and near driveways leading out of the CVT Recycling Facility. Information available to Coastkeeper indicates that industrial activities at the CVT Recycling Facility are conducted outdoors without adequate cover to prevent storm water exposure to pollutant sources, and without secondary containment or other measures to prevent polluted storm water from discharging from the CVT Recycling Facility.

Information available to Coastkeeper indicates that sources of pollutants associated with the industrial activities at the CVT Recycling Facility include, but are not limited to: on-site material handling equipment, such as trucks; processing of recyclables; dirt; leaks from equipment and recyclables; parking areas; shipping and receiving areas; office building(s); driveway areas; loading and unloading areas; and outside storage areas.

Information available to Coastkeeper also indicates that recyclables, O & G, dust, dirt, metals, and other pollutants have been and continue to be tracked throughout the CVT Recycling Facility. These pollutants accumulate at the bulk storage areas, the loading and unloading areas, and the parking lot and the driveways leading onto North Blue Gum Street. As a result, trucks and vehicles leaving the CVT Recycling Facility via staging areas and driveways are also pollutant sources tracking sediment, dirt, O & G, metal particles, and other pollutants off-site.

3. CVT Recycling Facility Pollutants and Discharge Points

Information available to Coastkeeper indicates that the pollutants associated with operations at the CVT Recycling Facility include, but are not limited to: heavy metals such as zinc, copper, lead, aluminum, and iron; O & G; TSS; and fugitive and other dust, dirt, and debris.

Information available to Coastkeeper indicates there is at least one (1) discharge point at the CVT Recycling Facility. Information available to Coastkeeper indicates that discharges from the facility flow in a western direction via a drop inlet on the western corner of the property to a storm sewer system via the 91/57 Interchange Culvert, which connects with the Santa Ana River. The CVT Recycling Facility Owner's and/or Operator's failure to develop and/or implement required BMPs results in the exposure of pollutants associated with industrial activities to precipitation, and results in the discharge of polluted storm water from the CVT Recycling Facility into Receiving Waters in violation of the Storm Water Permit and Clean Water Act. The CVT Recycling Facility Owners' and/or Operators' failure to develop and/or implement required BMPs also results in prohibited discharges of non-storm water in violation of the Storm Water Permit and the Clean Water Act.

The CVT Recycling Facility Owner and/or Operator has not developed and/or implemented BMPs required to address pollutant sources, to prevent the exposure of pollutants to storm water, and to prevent the subsequent discharge of polluted storm water from the CVT Recycling Facility during significant rain events. CVT Recycling Facility Owners' and/or Operators' failure to develop and/or implement required BMPs has also caused prohibited non-storm water discharges from the CVT Recycling Facility to Receiving Waters.

III. Violations of the Clean Water Act and the Storm Water Permit at the CVT Facility

A. Discharges of Polluted Storm Water from the CVT Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants⁶ and best conventional pollutant control technology ("BCT") for conventional pollutants.⁷ EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.⁸

Storm water sampling demonstrates that discharges from the CVT Facility contain concentrations of pollutants above the EPA Benchmarks. The tables below set forth the results of sampling conducted by Coastkeeper and by the CVT Facility Owners and/or Operators. Each sample result demonstrates a benchmark exceedance.

⁶ Toxic pollutants include heavy metals such as copper, lead, and zinc. *See* 40 C.F.R. § 401.15.

⁷ Conventional pollutants include biochemical oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform. *See* 40 C.F.R. § 401.16.

⁸ *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective May 26, 2009 ("Multi-Sector Permit"), Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

1. Sampling Conducted by Coastkeeper Demonstrating Benchmark Exceedances

Date of Sample	Sample Location	Constituent	EPA Benchmark ⁹	Sample Value	Multiple of Benchmark Value ¹⁰
10/5/2011	CVT Backside of Facility ¹¹	Copper	0.014 ¹²	0.048	3.43
10/5/2011	CVT Backside of Facility	Zinc	0.12 ¹³	0.3	2.50
10/5/2011	CVT Backside of Facility	TSS	100	180	1.80
12/12/2011	CVT (Backside of Facility)	O & G	15	20	1.33
12/12/2011	CVT (Backside of Facility)	TSS	100	610	6.10
12/12/2011	CVT (Backside of Facility)	Copper	0.014	0.074	5.29
12/12/2011	CVT (Backside of Facility)	Zinc	0.12	0.46	3.83

2. Sampling Conducted by CVT Facilities Owners and/or Operators Demonstrating Benchmark Exceedances

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
10/19/2010	MP-1	SC ¹⁴	200	500	2.50
10/19/2010	MP-1	TSS	100	834	8.34
10/19/2010	MP-1	Aluminum	0.75	16.9	22.53
10/19/2010	MP-1	Iron	1	26.4	26.40
10/19/2010	MP-1	Lead	0.082	0.11	1.34
10/19/2010	MP-1	Zinc	0.12	1	8.33
10/19/2010	MP-1	Copper	0.014	0.199	14.21
10/19/2010	MP-1	COD ¹⁵	120	530	4.42

⁹ EPA Benchmark Values for all constituents in the tables in this Supplemental Notice Letter are measured in units of mg/L, except for SC, which is measured in umhos/cm.

¹⁰ The values in the columns in this table and in the subsequent tables were calculated by taking the Sample Value and dividing it by the EPA Benchmark Value. For example, the first copper sample value (taken on 10/5/2011) of 0.048 divided by 0.014 (EPA benchmark for copper) equals 3.43. Thus the sample taken on 10/5/2011 is 3.43 times the EPA benchmark for copper.

¹¹ Coastkeeper collected samples from the discharge location at the southwest perimeter of the property located near the 91/57 Interchange Culvert, northwest of La Palma Avenue.

¹² Certain pollutants, including copper, lead and zinc, are water hardness dependent. The EPA benchmark listed in the tables in this Supplemental Notice Letter are based on a hardness of 100 mg/L. See Multi-Sector Permit, Fact Sheet at 106; see also, 65 Federal Register 64839 (2000).

¹³ See *id.*

¹⁴ Specific Conductance

¹⁵ Chemical Oxygen Demand

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
10/19/2010	MP-2	TSS	100	113	1.13
10/19/2010	MP-2	Aluminum	0.75	1.91	2.55
10/19/2010	MP-2	Iron	1	2.97	2.97
10/19/2010	MP-2	Copper	0.014	0.0264	1.89
10/19/2010	MP-2	Zinc	0.12	0.172	1.43
2/5/2009	MRF-S ¹⁶	O & G	15	22	1.47
2/5/2009	MRF-S	SC	200	270	1.35
2/5/2009	MRF-S	TSS	100	200	2.00
2/5/2009	MRF-S	Aluminum	0.75	4	5.33
2/5/2009	MRF-S	Iron	1	7	7.00
2/5/2009	MRF-S	Copper	0.014	0.063	4.50
2/5/2009	MRF-S	Zinc	0.12	0.28	2.33
2/5/2009	MRF-S	COD	120	310	2.58
2/5/2009	MRF-N	SC	200	340	1.70
2/5/2009	MRF-N	Aluminum	0.75	1.7	2.27
2/5/2009	MRF-N	Iron	1	2.5	2.50
2/5/2009	MRF-N	Copper	0.014	0.068	4.86
2/5/2009	MRF-N	Zinc	0.12	0.25	2.08
2/5/2009	MRF-N	COD	120	260	2.17
12/15/2008	MRF-S	TSS	100	440	4.40
12/15/2008	MRF-S	Aluminum	0.75	6.5	8.67
12/15/2008	MRF-S	Iron	1	12	12.00
12/15/2008	MRF-S	Copper	0.014	0.077	5.50
12/15/2008	MRF-S	Zinc	0.12	0.43	3.58
12/15/2008	MRF-S	SC	200	260	1.30
12/15/2008	MRF-N	O & G	15	21	1.40
12/15/2008	MRF-N	TSS	100	330	3.30
12/15/2008	MRF-N	Aluminum	0.75	8.1	10.80
12/15/2008	MRF-N	Iron	1	11	11.00
12/15/2008	MRF-N	Copper	0.014	0.21	15.00
12/15/2008	MRF-N	Zinc	0.12	0.6	5.00
12/15/2008	MRF-N	SC	200	1700	8.50
12/15/2008	MRF-N	COD	120	1900	15.83
1/23/2008	MRF-S	Aluminum	0.75	1.1	1.47
1/23/2008	MRF-S	Iron	1	1.8	1.80
1/23/2008	MRF-S	Copper	0.014	0.023	1.64
1/23/2008	MRF-S	Zinc	0.12	0.13	1.08
1/23/2008	MRF-N	TSS	100	240	2.40
1/23/2008	MRF-N	Aluminum	0.75	2.1	2.80
1/23/2008	MRF-N	Iron	1	3.1	3.10

¹⁶ Beginning with the 2009-2010 Annual Report, the sample location names changed from MP-1 and MP-2 to MRF-S and MRF-N. There was no explanation provided for this change in the subsequent Annual Reports.

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
1/23/2008	MRF-N	Copper	0.014	0.043	3.07
1/23/2008	MRF-N	Zinc	0.12	0.29	2.42
1/23/2008	MRF-N	COD	120	130	1.08
1/4/2008	MRF-S	SC	200	370	1.85
1/4/2008	MRF-S	Copper	0.014	0.036	2.57
1/4/2008	MRF-S	Zinc	0.12	0.15	1.25
1/4/2008	MRF-S	COD	120	230	1.92
1/4/2008	MRF-S	Iron	1	1.4	1.40
1/4/2008	MRF-N	SC	200	350	1.75
1/4/2008	MRF-N	TSS	100	310	3.10
1/4/2008	MRF-N	Aluminum	0.75	2.1	2.80
1/4/2008	MRF-N	Iron	1	3.7	3.70
1/4/2008	MRF-N	Copper	0.014	0.051	3.64
1/4/2008	MRF-N	Zinc	0.12	0.27	2.25
1/4/2008	MRF-N	COD	120	260	2.17

The repeated and significant exceedances of EPA Benchmarks demonstrate that the CVT Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs at the CVT Facility that achieve compliance with the BAT/BCT standards.

Information available to Coastkeeper indicates that each time there is a significant rain event storm water discharges from the CVT Facility violate Effluent Limitation B(3) of the Storm Water Permit. The CVT Facility Owners' and/or Operators' discharge violations are identified in Exhibit A. These violations are ongoing and will continue each time the CVT Facility Owners and/or Operators discharge polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Coastkeeper will update the number and dates of violations when additional information and data become available. Each time the CVT Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation (B)(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

B. Discharges of Polluted Storm Water from the CVT Facility Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance

of an applicable Water Quality Standard ("WQS").¹⁷ Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Storm water sampling demonstrates that discharges from the CVT Facility contain elevated concentrations of pollutants such as lead, copper, and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Storm water sampling at the CVT Facility also demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. The tables below set forth the results of sampling conducted by Coastkeeper and the CVT Facility Owners and/or Operators. Each sample result demonstrates violations of Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

1. Sampling Conducted by Coastkeeper Demonstrating Receiving Water Limitations Violations

Date of Sample	Sample Location	Constituent	CTR Limit ¹⁸	Sample Value	Multiple of CTR Limit ¹⁹
10/5/2011	CVT Backside of Facility ²⁰	Copper	0.013	0.048	3.69
10/5/2011	CVT Backside of Facility	Zinc	0.12	0.3	2.50
12/12/2011	CVT (Backside of Facility)	Copper	0.013	0.074	5.69
12/12/2011	CVT (Backside of Facility)	Zinc	0.12	0.46	3.83

2. Sampling Conducted by CVT Facilities Owners and/or Operators Demonstrating Receiving Water Limitations Violations

Date of Sample	Sample Location	Constituent	CTR Limit	Sample Value	Multiple of CTR Limit
10/19/2010	MP-1	Lead	0.065	0.11	1.69
10/19/2010	MP-1	Zinc	0.12	1	8.33

¹⁷ WQS include pollutant concentration levels determined by the State Water Resources Control Board and the EPA to be protective of the Beneficial Uses of the receiving waters. Discharges above WQS contribute to the impairment of the receiving waters' Beneficial Uses. Applicable WQS include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR"). The Basin Plan also sets out additional WQS.

¹⁸ CTR values for all constituents in the tables in this Supplemental Notice Letter are measured in units of mg/L.

¹⁹ The values in the columns in this table and in the subsequent tables were calculated by taking the Sample Value and dividing it by the CTR Limit. For example, the first copper sample value (taken on 10/5/2011) of 0.048 divided by 0.013 (CTR Limit for copper) equals 3.69. The sample taken on 10/5/2011 is 3.69 times the CTR Limit for copper.

²⁰ Coastkeeper collected samples from the discharge location at the southwest perimeter of the property located near the 91/57 Interchange Culvert, northwest of La Palma Avenue.

Date of Sample	Sample Location	Constituent	CTR Limit	Sample Value	Multiple of CTR Limit
10/19/2010	MP-1	Copper	0.013	0.199	15.31
10/19/2010	MP-2	Copper	0.013	0.0264	2.03
10/19/2010	MP-2	Zinc	0.12	0.172	1.43
2/5/2009	MRF-S	Copper	0.013	0.063	4.85
2/5/2009	MRF-S	Zinc	0.12	0.28	2.33
2/5/2009	MRF-N	Copper	0.013	0.068	5.23
2/5/2009	MRF-N	Zinc	0.12	0.25	2.08
12/15/2008	MRF-S	Copper	0.013	0.077	5.92
12/15/2008	MRF-S	Zinc	0.12	0.43	3.58
12/15/2008	MRF-N	Copper	0.013	0.21	16.15
12/15/2008	MRF-N	Zinc	0.12	0.6	5
1/23/2008	MRF-S	Copper	0.013	0.023	1.77
1/23/2008	MRF-S	Zinc	0.12	0.13	1.08
1/23/2008	MRF-N	Copper	0.013	0.043	3.31
1/23/2008	MRF-N	Zinc	0.12	0.29	2.42
1/4/2008	MRF-S	Copper	0.013	0.036	2.77
1/4/2008	MRF-S	Zinc	0.12	0.15	1.25
1/4/2008	MRF-N	Copper	0.013	0.051	3.92
1/4/2008	MRF-N	Zinc	0.12	0.27	2.25

The repeated and significant exceedances of CTR limits demonstrate that the CVT Facility Owners and/or Operators have violated and continue to violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

Information available to Coastkeeper indicates that each time there is a significant rain event storm water discharges from the CVT Facility violate Receiving Water Limitations C(1) and/or C(2). The CVT Facility Owners' and/or Operators' discharge violations are identified in Exhibit A. CVT Facility Owners' and/or Operators' violations are ongoing and will continue each time contaminated storm water is discharged in violation of the Receiving Water Limitations of the Storm Water Permit. Coastkeeper will update the number and dates of violations when additional information and data become available. Each time discharges of storm water from the CVT Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Each time discharges of storm water from the CVT Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act. The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

C. Discharges of Non-Storm Water from the CVT Facility in Violation of Discharge Prohibition A(1)

Except as authorized by the Storm Water Permit, Discharge Prohibition A(1) of the Storm Water Permit prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See Storm Water Permit, Discharge Prohibition A(1).*

Information available to Coastkeeper indicates that CVT Facility Owners and/or Operators use water for dust control and/or surface washing at the CVT Facility, and that water from CVT Facility Owners' and/or Operators' dust control and/or surface washing discharges from the CVT Facility to the Receiving Waters via the storm drain system. Thus information available to Coastkeeper indicates that prohibited non-storm water discharges discharge from the CVT Facility to the Receiving Waters in violation of Discharge Prohibition A(1) when CVT Facility Owners and/or Operators perform dust control and/or surface washing. Coastkeeper observed CVT Facility Owners' and/or Operators' violations of Discharge Prohibition A(1) on at least September 25, 2012. Coastkeeper anticipates obtaining additional information regarding the dates of CVT Facility Owners' and/or Operators' violations of Discharge Prohibition A(1), as Coastkeeper believes the use of water for dust control and/or surface washing is an ongoing business practice at the CVT Facility. These additional violations are of the same nature as the violations described herein.

Each time the CVT Facility Owners and/or Operators discharge prohibited non-storm water discharges in violation of Discharge Prohibition A(1) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Clean Water Act. These violations are ongoing and will continue each time the CVT Facility Owners and/or Operators discharge prohibited non-storm water discharges to the Receiving Waters from the CVT Facility. Coastkeeper will include additional violations when additional information and data become available. The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

D. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis

pursuant to the requirements of Section A(9). The SWPPP must also be revised as necessary to ensure compliance with the Storm Water Permit. *See* Sections A(9), A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other things, the SWPPP must include: a pollution prevention team; a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities; a description of significant spills and leaks, a list of all non-storm water discharges and their sources; and a description of locations where soil erosion may occur (*see* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

The current SWPPP for the CVT Facility fails to include an adequate site map in violation of Section A(4) of the Storm Water Permit. For example, the site map included with the CVT Facility SWPPP does not provide a description of: nearby water bodies; an outline of all impervious areas; the locations where materials are directly exposed to precipitation and where significant spills/leaks have occurred; structural control measures; areas of industrial activity; portions of the drainage area impacted by run-on; municipal storm drain inlets; or the location of the storm water collection, conveyance and discharge system(s).

Information available to Coastkeeper also indicates that the CVT Facility Owners and/or Operators have been conducting operations at the CVT Facility with an inadequately developed, implemented, and/or revised SWPPP. The CVT Facility Owners and/or Operators have failed and continue to fail to develop, implement, and/or revise a SWPPP that contains adequate BMPs to prevent the exposure of pollutant sources to storm water, and adequate BMPs to prevent the subsequent discharge of polluted storm water from the CVT Facility each time a significant rain event occurs.

Every day the CVT Facility Owners and/or Operators operate the CVT Facility with an inadequately developed, implemented, and/or revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The CVT Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least November 19, 2007. These violations are ongoing, and Coastkeeper will include additional violations when additional information and become available. The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate monitoring and reporting plan ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.* Dischargers must also revise the M&RP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *See id.*, *see also* Section B(4).

Sections B(3) through B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge at each discharge point of at least one (1) storm event per month during the Wet Season. Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Dischargers must also revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. The CVT Facility is a member of the Republic Services, Inc. Group Monitoring Program, and thus the CVT Facility Owners and/or Operators must comply with the group monitoring provisions set forth in Section B(15) of the Storm Water Permit. Under Section B(15) of the Storm Water Permit, the CVT Facility Owners and/or Operators are required to collect at least two (2) samples from each discharge point at the CVT Facility over a five (5) year period. *See* Storm Water Permit, Section B(5), B(7), and B(15). Storm water samples shall be analyzed for TSS, pH, specific conductance, total organic carbon or O & G, toxic chemicals and other pollutants that are likely to be present in significant quantities in the discharges. *Id.*, Section B(5)(c). The CVT Facility, as a solid waste collection, recycling, resource recovery and bulk waste transfer facility classified as SIC codes 4953 and 5093, must also analyze storm water samples for ammonia, magnesium, chemical oxygen demand, arsenic, cadmium, cyanide, lead, mercury, selenium, silver, iron, aluminum, copper, and zinc. *See id.*; *see also* Storm Water Permit, Table D, Sectors K and L.

The CVT Facility Owners and/or Operators are in violation of the Storm Water Permit for failing to visually observe storm water discharges during the first hour of discharge in the 2010-2011, 2009-2010, and 2008-2009 Wet Seasons, as required by Storm Water Permit Section B(4)(a). Information available to Coastkeeper also indicates that the CVT Facility Owners and/or Operators have failed and continue to fail to collect samples of storm water discharges from each of the CVT Facility's eight (8) discharge points, as required by Section B(5), Section B(7), and Section B(15) of the Storm Water Permit. For example, the CVT Facility Owners and/or Operators only collected storm water samples from two (2) discharge points during the the 2010-2011, 2008-2009, and 2007-2008 Wet Seasons.

Also in violation of Storm Water Permit Section B(5), CVT Facility Owners and/or Operators have failed to collect storm water samples from the first storm event of the Wet Season. For example, October 6, 2010²¹ was the first significant rain event of the 2010-2011 Wet Season, but the CVT Facility Owners and/or Operators did not collect any storm water samples on that date. In addition, November 4, 2008²² was the first significant rain event of the 2008-2009 Wet Season, but the CVT Facility Owners and/or Operators did not collect any storm water samples on November 4, 2008. October 13, 2007²³ was the first significant rain event of the 2007-2008 Wet Season, but the CVT Facility Owners and/or Operators did not collect any samples on October 13, 2007.

Finally, the CVT Facility Owners and/or Operators are in violation of the Storm Water Permit for failing to analyze storm water samples for all required parameters. *See* Storm Water Permit, Section B(5)(c); *see also* Table D, Sectors K and L. Specifically, the CVT Facility Owners and/or Operators have failed and continue to fail to analyze storm water discharges from the CVT Facility for ammonia, magnesium, chemical oxygen demand, arsenic, cadmium, cyanide, mercury, selenium, and silver.

The CVT Facility Owners' and/or Operators' failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that they have failed to develop, implement and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the CVT Facility Owners and/or Operators conduct operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed, implemented, and/or revised M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The CVT Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least November 19, 2007. These violations are ongoing, and Coastkeeper will include additional violations when additional information and data become available. The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

²¹ *See* Exhibit A.

²² *See id.*

²³ *See id.*

F. Failure to Comply with the Storm Water Permit's Reporting Requirements for the CVT Facility

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results, 2) an evaluation of the visual observation and sampling and analysis results and the laboratory reports; and 3) the Annual Comprehensive Site Compliance Evaluation Report. Section B(14). As part of the Annual Comprehensive Site Compliance Evaluation, which must be included in the Annual Report, the facility operator shall review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *See* Storm Water Permit Section A(9). The Annual Report shall be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of their knowledge. *See* Storm Water Permit Sections B(14); C(9), (10).

Since at least July 1, 2008, the CVT Facility Owners and/or Operators have failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, CVT Facility Owners and/or Operators certify in their Annual Reports that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper, including a review of the Regional Board's files and the CVT Facility storm water sampling data, indicates that the CVT Facility Owners' and/or Operators' certifications are erroneous. The CVT Facility Owners and/or Operators have not developed and/or implemented required BMPs, or revised the SWPPP. These failures result in the ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit limitations, and the ongoing discharge of prohibited non-storm water discharges.

CVT Facility Owners and/or Operators have also failed and continue to fail provide the explanations required by the Annual Report when there is non-compliance with the Storm Water Permit's terms. For example, CVT Facility Owners and/or Operators fail to explain in their Annual Reports why discharges from the CVT Facility have not been analyzed for all of the parameters set out in Table D of the Storm Water Permit applicable to SIC codes 4953 and 5093, as is required by Section B(5)(c)(iii) of the Storm Water Permit. Nor have CVT Facility Owners and/or Operators provided an explanation as to why storm water samples are not collected from all discharge points at the Colton Facility, as required by Section B(7) of the Storm Water Permit.

Further, the CVT Facility Owners and/or Operators have submitted inaccurate Annual Reports. For example, the CVT Facility Owners and/or Operators failed to sample the first rain event during the 2010-2011 Wet Season, yet the 2010-2011 Annual Report indicates that the first rain event was sampled. *Compare* Exhibit A with 2010-2011 Annual Report. As another example of inaccurate reporting, the CVT Facility Owners and/or Operators have self-reported that there are four (4) discharge points from the CVT Facility. But the CVT Facility SWPPP site

map indicates that there are eight (8) discharge points at the CVT Facility. Submitting an inaccurate annual report is a violation of Sections C(9) and C(10) of the Storm Water Permit.

Finally, the Storm Water Permit requires a permittee whose discharge exceeds the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Coastkeeper indicates that the CVT Facility Owners and/or Operators have failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the Storm Water Permit. As such, the CVT Facility Owners and/or Operators are in daily violation of this requirement of the Storm Water Permit.

Each failure to report as required discussed above is a violation of the Storm Water Permit, and indicates a continuous and ongoing failure to comply with the Storm Water Permit's reporting requirements. Every day that the CVT Facility Owners and/or Operators operate the Republic Facilities without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The CVT Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least November 19, 2007. Coastkeeper will include additional violations when additional information and data become available. The CVT Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

IV. Violations of the Clean Water Act and the Storm Water Permit at the ATD Facility

A. Discharges of Polluted Storm Water from the ATD Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve BAT for toxic pollutants and BCT for conventional pollutants. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.

Storm water sampling demonstrates that discharges from the ATD Facility contain concentrations of pollutants above the EPA Benchmarks. The tables below set forth the results of samples collected by Coastkeeper and by the ATD Facility Owners and/or Operators. Each sample result demonstrates a benchmark exceedance.

1. Sampling Conducted by Coastkeeper Demonstrating Benchmark Exceedances

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
10/5/2011	ATD (East Coronado Street	Copper	0.014	0.031	2.21

10/5/2011	Driveway) ATD (East Coronado Street Driveway)	Zinc	0.12	0.22	1.83
12/12/2011	ATD (East Coronado Street Driveway)	TSS	100	160	1.60
12/12/2011	ATD (East Coronado Street Driveway)	Copper	0.014	0.028	2.00
12/12/2011	ATD (East Coronado Street Driveway)	Zinc	0.12	0.21	1.75

2. Sampling Conducted by ATD Facility Owners and/or Operators
Demonstrating Benchmark Exceedances

Date of Sample	Sample Location	Constituent	EPA Benchmark	Sample Value	Multiple of Benchmark Value
2/5/2009	ATD	SC	200	280	1.40
2/5/2009	ATD	COD	120	310	2.58
2/5/2009	O&M	O & G	15	28	1.87
2/5/2009	O&M	SC	200	370	1.85
2/5/2009	O&M	TSS	100	150	1.50
2/5/2009	O&M	COD	120	550	4.58
12/15/2008	ATD	O & G	15	21	1.40
12/15/2008	ATD	TSS	100	570	5.70
12/15/2008	ATD	COD	120	280	2.33
12/15/2008	O&M	O & G	15	22	1.47
12/15/2008	O&M	TSS	100	240	2.40
12/15/2008	O&M	COD	120	400	3.33
1/23/2008	ATD	O & G	15	17	1.13
1/23/2008	ATD	COD	120	190	1.58
1/23/2008	O&M	O & G	15	25	1.67
1/23/2008	O&M	SC	200	310	1.55
1/23/2008	O&M	TSS	100	240	2.40
1/23/2008	O&M	COD	120	380	3.17
1/4/2008	ATD	O & G	15	17	1.13
1/4/2008	ATD	SC	200	320	1.60
1/4/2008	ATD	TSS	100	170	1.70
1/4/2008	ATD	COD	120	570	4.75
1/4/2008	O&M	O & G	15	41	2.73
1/4/2008	O&M	SC	200	1700	8.50
1/4/2008	O&M	TSS	100	1100	11.00
1/4/2008	O&M	COD	120	3700	30.83

The repeated and significant exceedances of EPA Benchmarks demonstrate that the ATD Facility Owners and/or Operators have failed to develop and/or implement required BMPs at the ATD Facility that achieve compliance with the BAT/BCT standards.

Information available to Coastkeeper indicates that each time there is a significant rain event storm water discharges from the ATD Facility violate Effluent Limitations B(3) of the Storm Water Permit. ATD Facility Owners' and/or Operators' discharge violations are identified in Exhibit A. These discharge violations are ongoing and will continue each time the ATD Facility Owners and/or Operators discharge polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Coastkeeper will update the number and dates of violation when additional information and data become available. Each time the ATD Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation (B)(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Clean Water Act. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

B. Discharges of Polluted Storm Water from the ATD Facility Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable WQS. Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Storm water sampling demonstrates that discharges from the ATD Facility contain elevated concentrations of pollutants such as copper and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Storm water sampling at the ATD Facility also demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. The tables below set forth the results of sampling conducted by Coastkeeper which demonstrate violations of Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

1. Sampling Conducted by Coastkeeper Demonstrating Receiving Water Limitations Violations

Date of Sample	Sample Location	Constituent	CTR Limit	Sample Value	Multiple of CTR Limit
10/5/2011	ATD (East	Copper	0.013	0.031	2.38

	Coronado Street Driveway)				
10/5/2011	ATD (East Coronado Street Driveway)	Zinc	0.12 ²⁴	0.22	1.83
12/12/2011	ATD (East Coronado Street Driveway)	Copper	0.013	0.028	2.15
12/12/2011	ATD (East Coronado Street Driveway)	Zinc	0.12	0.21	1.75

The repeated and significant exceedances of CTR limits demonstrate that the ATD Facility Owners and/or Operators have violated and continue to violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

In addition, ATD Facility Owners and/or Operators have violated Receiving Water Limitations C(1) and/or C(2) by failing to comply with WQS set forth in the Basin Plan. The Basin Plan WQS for pH requires that discharges to inland surface waters maintain a pH range of 6.5 to 8.5. *See* Basin Plan, Chpt. 4. On January 4, 2008, storm water discharges from the ATD Facility were outside of the Basin Plan WQS range for pH, as the sample result from the ATD Facility's discharge point MP-O&M for pH was 6.28 and the sample result for pH from discharge point MP-ATD was 6.44.

Information available to Coastkeeper indicates that each time there is a significant rain event storm water discharges from the ATD Facility violate Receiving Water Limitations C(1) and/or C(2). ATD Facility Owners' and/or Operators' discharge violations are identified in Exhibit A. ATD Facility Owners' and/or Operators' discharge violations of the Storm Water Permit are ongoing and will continue each time contaminated storm water is discharged in violation of the Receiving Water Limitations of the Storm Water Permit. Coastkeeper will update the number and dates of violation when additional information and data become available. Each time discharges of storm water from the ATD Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Each time discharges of storm water from the ATD Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

C. Discharges of Non-Storm Water in Violation of Discharge Prohibition A(1)

Except as authorized by the Storm Water Permit, Discharge Prohibition A(1) of the Storm Water Permit prohibits permittees from discharging materials other than storm water (non-

²⁴ *Id.*

storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See Storm Water Permit, Discharge Prohibition A(1).*

Information available to Coastkeeper indicates that ATD Facility Owners and/or Operators use water for dust control and/or surface washing at the ATD Facility, and that water from ATD Facility Owners' and/or Operators' dust control and/or surface washing discharges from the ATD Facility to the Receiving Waters via the storm drain system. Thus information available to Coastkeeper indicates that prohibited non-storm water discharges discharge from the ATD Facility to the Receiving Waters in violation of Discharge Prohibition A(1) when ATD Facility Owners and/or Operators perform dust control and/or surface washing. Coastkeeper observed ATD Facility Owners' and/or Operators' violations of Discharge Prohibition A(1) on at least September 25, 2012. Coastkeeper anticipates obtaining additional information regarding the dates of ATD Facility Owners' and/or Operators' violations of Discharge Prohibition A(1), as Coastkeeper believes the use of water for dust control and/or surface washing is an ongoing business practice at the ATD Facility. These additional violations are of the same nature as the violations described herein.

Each time the ATD Facility Owners and/or Operators discharge prohibited non-storm water discharges in violation of Discharge Prohibition A(1) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Clean Water Act. These violations are ongoing and will continue each time the ATD Facility Owners and/or Operators discharge prohibited non-storm water discharges to the Receiving Waters from the ATD Facility. Coastkeeper will include additional violations when additional information and data become available. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

D. Failure to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Republic Facilities, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9). The SWPPP must also be revised as necessary to ensure compliance with the Storm Water Permit. *See Sections A(9) and A(10).* Although the ATD SWPPP was revised on July 20, 2012, the new SWPPP has failed to make any substantive updates to the BMPs from the prior SWPPPs including the March 1, 2010 SWPPP.

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other things, the SWPPP must include: a pollution prevention team; a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities; a description of significant spills and leaks, a list of all non-storm water discharges and their sources; and a description of locations where soil erosion may occur (*see* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

In violation of Section A(4) of the Storm Water Permit, the SWPPP for the ATD Facility fails to include an adequate site map. The site map included with the ATD Facility SWPPP does not provide a description of: nearby water bodies; portions of the drainage area impacted by run-on from surrounding areas; areas of soil erosion; or the location of the storm water collection and conveyance system.

Information available to Coastkeeper also indicates that the ATD Facility Owners and/or Operators have been conducting operations at the ATD Facility with an inadequately developed, implemented, and/or revised SWPPP. The ATD Facility Owners and/or Operators have failed and continue to fail to develop, implement, and/or revise a SWPPP that contains adequate BMPs to prevent the exposure of pollutant sources to storm water, and adequate BMPs to prevent the subsequent discharge of polluted storm water from the ATD Facility each time a significant rain event occurs. The failure to adequately develop, implement and/or revise their SWPPP is a violation of the Storm Water Permit.

Every day the ATD Facility Owners and/or Operators operate the ATD Facility with an inadequately developed, implemented, and/or revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The ATD Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least November 19, 2007. These violations are ongoing, and Coastkeeper will include additional violations when information becomes available. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the ATD Facility

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate monitoring and reporting plan ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and

measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.* Dischargers must also revise the M&RP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *See id.*, *see also* Section B(4).

Sections B(3) through B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge at each discharge point of at least one (1) storm event per month during the Wet Season. Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Dischargers must also revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. The ATD Facility is a member of the Republic Services, Inc. Group Monitoring Program, and thus the ATD Facility Owners and/or Operators must comply with the group monitoring provisions set forth in Section B(15) of the Storm Water Permit. Under Section B(15) of the Storm Water Permit, the ATD Facility Owners and/or Operators are required to collect at least two (2) samples from each discharge location at the ATD Facility over a five (5) year period. *See* Storm Water Permit, Section B(5), B(7), and B(15). Storm water samples shall be analyzed for TSS, pH, specific conductance, total organic carbon or oil and grease, toxic chemicals and other pollutants that are likely to be present in significant quantities in the discharges. *Id.*, Section B(5)(c).

Information available to Coastkeeper indicates that the ATD Facility Owners and/or Operators have failed to visually observe storm water discharges during the first hour of discharge, as is required under the Storm Water Permit Section B(4)(a). For example, no visual observations were made during the first hour of storm water discharges in the 2011-2012 and 2008-2009 Wet Seasons.

Information available to Coastkeeper indicates that the ATD Facility Owners and/or Operators have failed and continue to fail to collect samples of the storm water discharge from each of the ATD Facility's eight (8) discharge points, as required by Section B(5), Section B(7), and Section B(15) of the Storm Water Permit. For example, during the 2008-2009 and 2007-2008 Wet Seasons, the ATD Facility Owners and/or Operators only collected storm water

samples from two (2) discharge points. The ATD Facility Owners' and/or Operators' failures to collect storm water samples from each discharge point violate the Storm Water Permit.

In further violation of Storm Water Permit, ATD Facility Owners and/or Operators have failed to collect samples from the first storm event of the Wet Season. *See* Storm Water Permit, Section B(5). For example, October 6, 2010²⁵ was the first significant rain event of the 2010-2011 Wet Season, but the ATD Facility Owners and/or Operators did not collect a storm water sample on that date. November 4, 2008²⁶ was the first significant rain event of the 2008-2009 Wet Season, but the ATD Facility Owners and/or Operators did not collect a storm water sample on November 4, 2008.

Information available to Coastkeeper indicates that the ATD Facility Owners and/or Operators have failed to analyze samples for pollutants which are likely to be present in storm water discharges from the ATD Facility in significant quantities, as is required by the Storm Water Permit Section B(5)(c)(ii). The results of storm water samples collected by Coastkeeper, as listed above, demonstrate that copper and zinc are present in storm water discharges from the ATD Facility in significant quantities. The ATD Facility Owners and/or Operators have failed to analyze storm water samples for copper and zinc. Therefore, the ATD Facility Owners and/or Operators are in violation of the Storm Water Permit Section B(5)(c)(ii) by failing to analyze storm water samples for pollutants likely to be present in storm water discharges from the ATD Facility.

The ATD Facility Owners' and/or Operators' failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that they have failed to develop, implement and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the ATD Facility Owners and/or Operators conduct operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed, implemented, and/or revised M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The ATD Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least November 19, 2007. These violations are ongoing, and Coastkeeper will include additional violations when additional information and data become available. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

F. Failure to Comply with the Storm Water Permit's Reporting Requirements for the ATD Facility

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results, 2) an evaluation of the visual observation and sampling and analysis results and the

²⁵ *See* Exhibit A.

²⁶ *See id.*

laboratory reports; and 3) the Annual Comprehensive Site Compliance Evaluation Report. As part of the Annual Comprehensive Site Compliance Evaluation, which must be included in the Annual Report, the facility operator shall review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *See* Storm Water Permit Section A(9). The Annual Report shall be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of their knowledge. *See* Storm Water Permit Sections B(14); C(9), (10).

Since at least July 1, 2008, the ATD Facility Owners and/or Operators have failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, ATD Facility Owners and/or Operators certify in their Annual Reports that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Coastkeeper, including a review of the Regional Board's files and the ATD Facility storm water sampling data, indicates that the ATD Facility Owners' and/or Operators' certifications are erroneous. The ATD Facility Owners and/or Operators have not developed and/or implemented required BMPs, or revised the SWPPP. These failures result in the ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit limitations, and the ongoing discharge of prohibited non-storm water discharges.

Further, the ATD Facility Owners and/or Operators have submitted inaccurate Annual Reports. For example, the ATD Facility Owners and/or Operators failed to sample the first rain event during the 2010-2011 Wet Season, yet the 2010-2011 Annual Report indicates that the first rain event was sampled. *Compare* Exhibit A with 2010-2011 Annual Report. Submitting an inaccurate annual report is a violation of Sections C(9) and C(10) of the Storm Water Permit. Nor have ATD Facility Owners and/or Operators provided an explanation as to why storm water samples are not collected from all discharge points at the Colton Facility, as required by Section B(7) of the Storm Water Permit.

Finally, the Storm Water Permit requires a permittee whose discharge exceeds the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Coastkeeper indicates that the ATD Facility Owners and/or Operators have failed to submit the reports required by Receiving Water Limitations C(3) and C(4) of the Storm Water Permit. As such, the ATD Facility Owners and/or Operators are in daily violation of this requirement of the Storm Water Permit.

Each of the failures to report as required discussed above is a violation of the Storm Water Permit, and indicates a continuous and ongoing failure to comply with the Storm Water Permit's reporting requirements. Every day the ATD Facility Owners and/or Operators operate the ATD Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The ATD Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's

reporting requirements every day since at least November 19, 2007. Coastkeeper will include additional violations when additional information and data become available. The ATD Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

V. Violations of the Clean Water Act and the Storm Water Permit at the CVT Recycling Facility

A. The CVT Recycling Facility Owner and/or Operator Discharges Pollutants Without NPDES Permit Coverage in Violation of Section 301(a) of the Clean Water Act

The Clean Water Act requires that any person discharging pollutants to a water of the United States from a point source²⁷ obtain coverage under an NPDES permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1). The CVT Recycling Facility Owner and/or Operator discharges pollutants from point sources at the Colton Facility to waters of the United States without NPDES permit coverage in violation of Section 301(a) of the Clean Water Act.

In California, industrial dischargers not covered under an individual NPDES permit must comply with the terms of the Storm Water Permit to lawfully discharge storm water associated with industrial activity. *See id.*; *see also* Storm Water Permit, Fact Sheet p. VII. Information available to Coastkeeper indicates that the CVT Recycling Facility's applicable SIC code is 5093, as this SIC code covers recycling facilities primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials, including bottles, boxes, metal waste and scrap, nonferrous metals scrap, plastics scrap, and waste paper. SIC code 5093 facilities are required to obtain coverage under the Storm Water Permit or an individual NPDES permit, as required by the Clean Water Act. The CVT Recycling Facility Owner and/or Operator discharges storm water associated with industrial activities without Storm Water Permit coverage in violation of the Storm Water Permit.

Every day the CVT Recycling Facility Owner and/or Operator conducts industrial activities without NPDES permit coverage is a separate and distinct violation of the Clean Water Act and the Storm Water Permit. The CVT Recycling Facility Owner and/or Operator has been in daily and continuous violation of the requirement to obtain and comply with the Storm Water Permit and/or an individual NPDES permit every day since beginning operations. These violations are ongoing, and Coastkeeper will include additional violations when additional information and data become available. The CVT Recycling Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

²⁷ The Clean Water Act defines a point source as any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. 33 U.S.C. § 1362(14); *see* 40 C.F.R. § 122.2

B. The CVT Recycling Facility is Discharging Pollutants Not in Compliance with an NPDES Permit in Violation of Section 301(a) of the Clean Water Act

1. Discharges from the CVT Recycling Facility Not in Compliance with an NPDES Permit Violate Section 301(a) of the Clean Water Act

Section 301(a) of the Clean Water Act prohibits any person from discharging any pollutant from a point source to a water of the United States except in compliance with an NPDES permit. As stated above, the CVT Recycling Facility Owner and/or Operator discharges pollutants from point sources without an NPDES permit. Thus discharges from the CVT Recycling Facility are not in compliance with an NPDES permit in violation of Section 301(a) of the Clean Water Act.

The Storm Water Permit is an NPDES permit that regulates storm water discharges associated with industrial activities, and includes, among other requirements, Effluent Limitations, Receiving Water Limitations, and Discharge Prohibitions. Specifically, Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve BAT for toxic pollutants and BCT for conventional pollutants. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable WQS. Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Except as authorized by the Storm Water Permit, Discharge Prohibition A(1) of the Storm Water Permit prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. See Storm Water Permit, Discharge Prohibition A(1).

On September 25, 2012, Coastkeeper observed the CVT Recycling Facility Owner and/or Operator uses water for dust control and/or surface washing at the CVT Recycling Facility, and observed that water from CVT Recycling Facility Owner's and/or Operator's dust control and/or surface washing discharge from the CVT Recycling Facility to the storm drain system, which connects to the Receiving Waters. Coastkeeper also observed that pollutant sources are stored outdoors without adequate cover or containment, and near driveways leading out of the CVT Recycling Facility, and that industrial activities at the CVT Recycling Facility are conducted

outdoors without adequate cover to prevent storm water exposure to pollutant sources, and without secondary containment or other measures to prevent pollutants from discharging from the CVT Recycling Facility.

Thus information available to Coastkeeper indicates that the CVT Recycling Facility Owner and/or Operator has discharged, and continues to discharge, pollutants from a point source to a water of the United States not in compliance with an NPDES Permit in violation of Section 301(a) of the Clean Water Act. The CVT Recycling Facility Owner and/or Operator has failed and continues to fail to develop and/or implement BMPs that achieve BAT/BCT standards in violation of Effluent Limitation B(3) of the Storm Water Permit. The CVT Recycling Facility Owner and/or Operator has also failed and continues to fail to develop and/or implement BMPs that prevent pollutants discharging from the CVT Recycling Facility from adversely impacting human health or the environment or causing or contributing to exceedances of applicable WQS in violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit. Further, the CVT Recycling Facility Owner and/or Operator has discharged and continues to discharge prohibited non-storm water discharges from the CVT Recycling Facility in violation of Discharge Prohibition A(1) of the Storm Water Permit.

Every day pollutants are discharged from the CVT Recycling Facility to a water of the United States not in compliance with an NPDES permit is a separate and distinct violation of the Clean Water Act. These violations are ongoing, and will continue each day discharges of pollutants occur from the CVT Recycling Facility. Coastkeeper anticipates obtaining additional information regarding the dates of CVT Recycling Facility Owner's and/or Operator's discharges not in compliance with an NPDES permit, and Coastkeeper will include additional violations when additional information and data become available. The CVT Recycling Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

2. The CVT Recycling Facility Owner and/or Operator Has Failed to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan for the CVT Recycling Facility

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Colton Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9). The SWPPP must also be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other things, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities; a description of significant spills and leaks, a list of all non-storm water discharges and their sources; and a description of locations where soil erosion may occur (*see* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

The CVT Recycling Facility Owners and/or Operators were required to develop and implement a SWPPP prior to commencing industrial activities at the CVT Recycling Facility. *See* Storm Water Permit Section A(1) and Provision E(2). Information available to Coastkeeper indicates that the CVT Recycling Owner and/or Operator have been conducting and continues to conduct industrial activities at the CVT Recycling Facility without developing and implementing a SWPPP. Information available to Coastkeeper also indicates that the CVT Recycling Owner and/or Operator has been conducting and continues to conduct industrial activities at the CVT Recycling Facility without adequately developing, implementing, and/or revising a SWPPP to implement BMPs to reduce or prevent pollutants from discharging from the CVT Recycling Facility.

Every day the CVT Recycling Facility Owner and/or Operator operates the CVT Recycling Facility without developing and implementing a SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. Every day the CVT Recycling Facility Owner and/or Operator operates the CVT Recycling Facility without adequately developing, implementing, and/or revising a SWPPP to implement BMPs to reduce or prevent pollutants from discharging from the CVT Recycling Facility is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. These violations are ongoing, and Coastkeeper will include additional violations and detail when information becomes available. The CVT Recycling Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

3. The CVT Recycling Facility Owner and/or Operator Has Failed to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the CVT Recycling Facility

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate M&RP by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions,

Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.* Dischargers must also revise the M&RP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *See id.*, *see also* Section B(4).

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate monitoring and reporting plan ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.* Dischargers must also revise the M&RP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *See id.*, *see also* Section B(4).

Sections B(3) through B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge at each discharge point of at least one storm event per month during the Wet Season. Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Dischargers must also revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. Dischargers are also required to collect storm water samples during the first hour of discharge from the first storm event of the Wet Season, and from at least one (1) additional storm water event. *See* Storm Water Permit, Section B(5)(a). Storm water samples shall be analyzed for TSS, pH, specific conductance, total organic carbon or O & G, toxic chemicals and other pollutants that are likely to be present in significant quantities in the discharges. *Id.*, Section B(5)(c).

Information available to Coastkeeper indicates that the CVT Recycling Facility Owner and/or Operator has been conducting and continues to conduct activities at the CVT Recycling Facility without developing, implementing, and/or revising an adequate M&RP.

The CVT Recycling Facility Owner's and/or Operator's failure to develop, implement, and/or revise an adequate M&RP prior to commencing industrial activities at the CVT Recycling Facility violates the Storm Water Permit. The CVT Recycling Facility Owner's and/or Operator's failure to visually observe storm water discharges and to collect samples of storm water samples from the CVT Recycling Facility also violates the Storm Water Permit. Every day that the CVT Recycling Facility Owner and/or Operator conducts industrial activities without developing, implementing, and/or revising an adequate M&RP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. These violations are ongoing, and Coastkeeper will include additional violations and detail when additional information and data become available. The CVT Recycling Facility Owner and/or Operator is subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

VI. Relief and Penalties Sought for Violations of the Clean Water Act

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and \$37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Coastkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Coastkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. Conclusion

Upon expiration of the 60-day notice period, Coastkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the facilities owners' and/or operators' violations of the Storm Water Permit identified herein. During the 60-day notice period, however, Coastkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions, please contact Coastkeeper. Please direct all communications to Coastkeeper's legal counsel:

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Sincerely,

A handwritten signature in black ink, appearing to read "Colin Kelly", with a long horizontal flourish extending to the right.

Colin Kelly, Staff Attorney
Orange County Coastkeeper

SERVICE LIST

VIA U.S. CERTIFIED MAIL

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**Exhibit A: Table of Alleged Dates of Storm Water Permit and Clean Water Act
Violations December 2007 to April 2012 for the Republic Facilities**

Date	Day of Week	Precipitation
4/26/12	Thursday	0.36
4/14/12	Saturday	0.69
4/11/12	Wednesday	0.4
4/1/12	Sunday	0.14
3/26/12	Monday	1.02
3/18/12	Sunday	1.31
3/17/12	Saturday	0.14
2/27/12	Monday	0.39
2/16/12	Thursday	0.28
1/23/12	Monday	0.45
1/21/12	Saturday	0.15
1/20/12	Friday	0.42
12/16/11	Friday	0.11
12/13/11	Tuesday	0.45
11/20/11	Sunday	0.5
11/12/11	Saturday	0.11
11/6/11	Sunday	0.1
11/4/11	Friday	0.18
10/5/11	Wednesday	1.23
5/18/11	Wednesday	0.12
3/25/11	Friday	0.14
3/23/11	Wednesday	0.47
3/20/11	Sunday	1.31
2/26/11	Saturday	1.13
2/25/11	Friday	0.39
2/18/11	Friday	0.14
1/2/11	Sunday	0.17
12/29/10	Wednesday	1.14
12/25/10	Saturday	0.23
12/22/10	Wednesday	1.84
12/21/10	Tuesday	0.57
12/20/10	Monday	1.7
12/19/10	Sunday	2.01
12/18/10	Saturday	0.38
12/6/10	Monday	0.15
10/30/10	Saturday	0.32
10/19/10	Tuesday	0.15
10/6/10	Wednesday	0.12
1/26/10	Tuesday	0.11
1/22/10	Friday	0.84
1/21/10	Thursday	0.95

Date	Day of Week	Precipitation
1/20/10	Wednesday	1.73
1/19/10	Tuesday	1.16
1/18/10	Monday	1.25
12/13/09	Sunday	0.1
12/12/09	Saturday	0.76
12/7/09	Monday	0.65
10/14/09	Wednesday	0.94
2/17/09	Tuesday	0.34
2/16/09	Monday	0.64
2/13/09	Friday	0.44
2/9/09	Monday	0.26
2/8/09	Sunday	0.24
2/7/09	Saturday	0.22
2/6/09	Friday	0.5
1/24/09	Saturday	0.36
12/22/08	Monday	0.22
12/17/08	Wednesday	0.24
12/15/08	Monday	2.59
11/27/08	Thursday	0.1
11/26/08	Wednesday	1.52
11/4/08	Tuesday	0.12
5/22/08	Thursday	0.12
2/22/08	Friday	0.24
2/3/08	Sunday	0.42
1/28/08	Monday	0.31
1/27/08	Sunday	0.18
1/25/08	Friday	0.15
1/24/08	Thursday	0.1
1/23/08	Wednesday	0.39
1/6/08	Sunday	0.7
1/5/08	Saturday	0.98
1/4/08	Friday	0.65
12/19/07	Wednesday	0.12
12/18/07	Tuesday	0.28
12/7/07	Friday	0.23